

July 22

ments, so that foreign countries will not have criminal jurisdiction over American Armed Forces personnel stationed within their boundaries; to the Committee on Foreign Relations.

SUPPLEMENTING EXISTING LAWS AGAINST UNLAWFUL RESTRAINTS AND MONOPOLIES

Mr. KILGORE. Mr. President, until recently the treble damage section of the Sherman Antitrust Act stood as the most effective deterrent to those contemplating violating the antitrust laws.

However, on March 28, 1955, the Supreme Court in the case of Commissioner of Internal Revenue against Glenshaw Glass Co. decided that the top two-thirds of such recoveries are taxable in the year received and at ordinary income rates. This decision reversed not only the decision of the Third Circuit Court of Appeals but also the longstanding rule of the Tax Court that the receipt of such penalties was not the receipt of earned income.

In thus depriving plaintiffs of most of the financial benefits of successful prosecution of these complex, lengthy, and expensive antitrust actions, the Supreme Court's ruling discourages vigorous prosecution of pending suits and deters the filing of new complaints.

On May 23, 1955, for the purpose of revitalizing the treble damage section, Representative CLEGG, chairman of the House Judiciary Committee, introduced H. R. 6404, a bill to amend section 15 of title 15 of the United States Code so that the amount recovered in such private enforcement actions in excess of damages sustained shall once again be free of tax. This would simply put it back in the status in which it has always been considered prior to this decision.

I introduce, for appropriate reference, an identical companion bill, to amend section 4 of the act entitled "An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914.

Without trespassing further on the valuable time of the Senate, particularly in the closing days of the session, I ask unanimous consent that the bill, together with a statement by Representative CLEGG, concerning this matter, and certain pertinent excerpts from the testimony of Mr. Robert A. Bicks, legal assistant to the Assistant Attorney General in charge of the Antitrust Division, when he testified before the House Antitrust Subcommittees on June 29, 1955, be printed in the Record.

The PRESIDENT pro tempore. The bill will be received and appropriately referred; and, without objection, the bill, statement, and excerpts will be printed in the Record.

The bill (S. 2605) to amend section 4 of the act entitled "An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914, introduced by Mr. KILGORE, was received, read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed in the Record, as follows:

Be it enacted, etc., That section 4 of the act entitled "An act to supplement existing

laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914 (15 U. S. C., sec. 15), is hereby amended by inserting "(a)" after "Sec. 4," and by adding at the end thereof the following new subsection:

"(b) In the case of any action pending or instituted under subsection (a) of this section on or after the date of the enactment of this subsection, the amount recovered in excess of the damages sustained shall not be treated as income for purposes of any law of the United States imposing a tax on income."

The statement and excerpts presented by Mr. KILGORE are as follows:

STATEMENT BY REPRESENTATIVE CLEGG

This bill will exclude from taxable income two-thirds of the treble damages awarded private litigants who have been injured in their business or property by any other person or company as the result of violation of the antitrust laws.

Treble damages are presently awarded under the antitrust laws as an incentive to injured persons to appear before the courts when antitrust violations affecting them have occurred. Private antitrust suits are complex, lengthy, and expensive, and small companies especially are under a handicap in protecting themselves from antitrust law violators. Treble damages compensate them for the risk to their businesses as well as the time and expense to which they are subject in these suits.

Private treble damage antitrust actions have a twofold purpose: first they operate as a deterrent to antitrust violations and second they are an important aid to the Government in its enforcement program. It is important to encourage those injured to seek redress resulting from antitrust violations inasmuch as the Government cannot single-handedly detect and arrest all antitrust violations.

The Supreme Court has recently held (*Commissioner of Internal Revenue v. Glenshaw Glass Co.*, decided March 28, 1955) that under present law the amount over actual damages of the treble damages awarded under the antitrust laws fall within the compass of gross income and is, therefore, taxable. This upset a long-standing rule that only one-third of the damages received in these suits was taxable.

As an inducement to injured persons or companies to press their own suits against antitrust violators, and to insure adequate compensation for the risks and expense involved, it is desirable to have the two-thirds damages treated as nontaxable income. This bill will accomplish that purpose.

Free competition and the effectiveness of the antitrust laws will depend in large measure upon the enthusiasm with which those wronged by violations pursue their rights to which they are entitled.

EXCERPTS FROM TESTIMONY OF MR. ROBERT A. BICKS, LEGAL ASSISTANT TO THE ASSISTANT ATTORNEY GENERAL IN CHARGE OF THE ANTITRUST DIVISION, BEFORE HOUSE ANTITRUST SUBCOMMITTEES

Speaking in behalf of the Department of Justice concerning the role private antitrust suits should play to insure effective antitrust law enforcement, Mr. Robert A. Bicks stated on June 29, 1955, as follows:

"The Antitrust Division is presently caught in a vice between increasing complaints of violation and constant, or even decreasing, prosecuting staffs. Complaints, for example, jumped from 788 in fiscal year 1952 to 1,054 in fiscal year 1954. And this figure promises to climb even higher for fiscal 1955. Appropriations, in contrast, have slumped from \$3,500,000 in fiscal 1953 to \$3,150,000 in fiscal 1954, and a low of \$2,100,000 for fiscal 1955. Thus the squeeze on prosecuting resources

and the resulting need for increased reliance on private suits."

Mr. Bicks added:

"Private actions, however, do more than duplicate Government work. They may adjudicate practices not expressly covered by Government decrees. Or they may help close the breach left by necessarily incomplete Government policing of decrees. And most important, private recoveries heighten the financial impact and consequently the deterrent value of both civil and criminal Government action."

At pages 57-59 of the official verbatim transcript of hearing before the special subcommittee of the Judiciary Committee of the House of Representatives in connection with its study of the antitrust laws, June 29, 1955, the following colloquy took place between the chairman, Representative Emanuel Celler, Representative Kenneth Keating, and Mr. Robert A. Bicks, legal assistant to Judge Barnard, Assistant Attorney General in charge of the Justice Department's Antitrust Division:

"The CHAIRMAN. Under recent Supreme Court decisions treble damages recovered are taxable; are they not?"

"Mr. BICKS. Not only taxable, but taxable all in the year received."

"Mr. KEATING. For the whole amount, or just two-thirds of the amount?"

"The CHAIRMAN. No, all of it."

"Mr. BICKS. Less attorney's fees."

"The CHAIRMAN. The damages paid can be deducted by the defendant corporation; is that correct?"

"Mr. BICKS. That is my understanding."

"The CHAIRMAN. There is not going to be much left in the treble damage action under that court decision. Now, if we are going to whittle away anything further, we will simply destroy the very purpose of treble damages."

"Mr. BICKS. Mr. Chairman, in that regard, first you may be interested in a letter which we have written the Commissioner of Internal Revenue as well as the counsel of the Department of the Treasury."

Then, at pages 58-59, Mr. Bicks, reading from the Justice Department letter, quoted in pertinent part as follows:

"Private antitrust suits have aided enforcement of the antitrust laws and have helped to supplement enforcement by the Government. In some instances a private suit has made it unnecessary for the Government to proceed in particular cases. In other instances a private suit has alerted the Antitrust Division to a situation requiring action on our part. We are therefore concerned with any tax situation which might discourage filing such suits and encourage the violation of the antitrust laws."

BILLS IMPLEMENTING RECOMMENDATIONS OF THE HOOVER COMMISSION

Mr. SMITH of New Jersey. Mr. President, last week I addressed the Senate on the subject of the second Hoover Commission and included with my remarks a table of proposed legislation introduced up to that time to implement the various reports of the Commission.

Today I introduce for appropriate reference, three additional bills to implement the recommendations of the Hoover Commission.

The first of these is a bill to establish a Joint Committee on Foreign Intelligence and which would implement recommendation No. 10 of the report on intelligence.

The second is a bill authorizing the Postmaster General to include certain indirect costs in determining the total

of the parcel-post service, which would implement recommendation No. 33 in the report on business enterprises. The third is a bill requiring the Commodity Credit Corporation to make periodic inspections of the agricultural commodities held by it and to report thereon to the Congress, discontinuing loans by the Corporation on agricultural commodities, and for other purposes, which would implement recommendations Nos. 33 and 34 in the report on lending agencies.

The PRESIDENT pro tempore. The bills will be received and appropriately referred.

The bills introduced by Mr. SMITH of New Jersey were received, read twice by their titles, and referred as indicated:

To the Committee on Foreign Relations:

S. 2614. A bill to establish a Joint Committee on Foreign Intelligence.

To the Committee on Post Office and Civil Service:

S. 2615. A bill authorizing the Postmaster General to include certain indirect costs in determining the total costs of the parcel-post service.

To the Committee on Agriculture and Forestry:

S. 2616. A bill requiring the Commodity Corporation to make periodic inspections of the agricultural commodities held by it and to report thereon to the Congress, discontinuing loans by the Corporation on agricultural commodities, and for other purposes.

MODIFICATION OF PROJECT FOR SAINT MARYS RIVER, MICH., SOUTH CANAL—CHANGE OF REFERENCE

Mr. HUMPHREY. Mr. President, under date of June 14, 1955, the Senator from Michigan (Mr. McNAMARA) and I introduced a bill (S. 2210) to modify the project for the St. Marys River, Mich., South Canal, in order to repeal the authorization for the alteration of the international bridge as part of such project, and to authorize the Secretary of the Army to accomplish such alteration, which was referred to the Committee on Foreign Relations. I now ask unanimous consent that the Committee on Foreign Relations be discharged from further consideration of the bill, and that it be referred to the Committee on Public Works. The bill was inadvertently referred to the Committee on Foreign Relations, the thought being that the bill had to do with an international bridge. It so happens that the bridge will be located on the American side of the border, is a domestic matter, and should be referred to the Committee on Public Works.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Minnesota? The Chair hears none, and it is so ordered.

ADDRESSES, EDITORIALS, ARTICLES, ETC., PRINTED IN THE APPENDIX

On request, and by unanimous consent, addresses, editorials, articles, etc., were ordered to be printed in the Appendix, as follows:

By Mr. CASE of South Dakota: Broadcast by Charles Collingwood entitled "A Commentator Looks at Congress."

By Mr. CAPEHART: Address delivered by Dr. Foster C. Nix, director of research of the Edison Industries, before graduating class of Indiana Technical College on May 22, 1955.

Article by Ruth Montgomery relating to use of dollar-a-year men in Government.

By Mr. ERVIN: Editorial entitled "Other Industries Are Better Able Than Textiles To Aid Jap Market," published in the Charlotte (N. C.) Observer of July 2, 1955; and an editorial entitled "Our Throat Is Being Cut," published in the Rocky Mount (N. C.) Evening Telegram of July 15, 1955.

By Mr. BUTLER: Editorial entitled "New Law Needed To Bar Spies from War Plants"; news letters issued by Senator BUTLER's office under date of May 9, 1955, and July 11, 1955.

By Mr. MCCARTHY: Statement entitled "For Students of the Techniques of Communism," by Lewis F. Budenz.

By Mr. HUMPHREY: Essay entitled "Our Land and Water: Basic Resources," written by John Stuart Olson, of Minneapolis, Minn.

By Mr. DIRKSEN: Poem entitled "The Coal Miner," written by Vachel Davis, of Eldorado, Ill. List of Korean war prisoner veterans who are entitled to monetary benefits under provisions of Public Law 615, 83d Congress.

By Mr. WILEY: Editorial and letters dealing with increasing the number of foreign-language experts in the United States.

By Mr. BIBLE: Address by Senator MAGNUSON at the dedication ceremonies of the opening of the Tacoma Waterway, Tacoma, Wash., July 22, 1955.

SENATOR JOHNSON OF TEXAS

Mr. BRICKER. Mr. President, I ask unanimous consent to have printed in the body of the RECORD an editorial in regard to the illness of the distinguished majority leader. The editorial was published in the Ohio State Journal.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Ohio State Journal, Columbus, Ohio for July 8, 1955]

SENATOR JOHNSON'S CALIBER

If the illness of Senator LYNDON B. JOHNSON of Texas, the leader of the Democratic majority, should result in his retirement from the more arduous phases of political life, it will be the Nation's loss.

Senator JOHNSON is reported progressing satisfactorily, though still on the serious list, as the result of a heart attack suffered last weekend. It may take another 6 months to tell whether he can resume his duties as majority leader.

The leadership provided by Senator JOHNSON in a Democratic-controlled, though closely divided, Senate in the midst of a Republican administration has been notable for the smoothness of its functioning, the absence of caviling and obstructionist tactics and the harmony which has been induced within his own traditionally wide-split party.

Under Senator JOHNSON, there has been about as little playing of petty politics in the Senate as could be expected of a political body. The Senate needs more men of the caliber of LYNDON JOHNSON. Let us hope that he can return to his post at an early date for further contribution to the country's well-being.

SENATORS JOHNSON OF TEXAS AND CLEMENTS OF KENTUCKY

Mr. HUMPHREY. Mr. President, I ask unanimous consent to have printed in the RECORD sundry editorials relating to the majority leader (Mr. JOHNSON of Texas) and the acting majority leader (Mr. CLEMENTS).

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Erie Dispatch of July 7, 1955]

JOHNSON LEADER

The heart attack which laid Senator LYNDON JOHNSON low last week may result in Congress missing its target date of August 10 for adjournment by a considerable period of time.

For JOHNSON was the one man in the Senate who knew all of the angles of getting things done. It was he who had set the adjournment date at about July 15, hoping Congress would have its work cleared out later than August 10.

Actually some Members of Congress had figured they might be out of Washington by the end of July. They have worked with JOHNSON, when he was in the House, and they know his capabilities.

He has kept the Senate abreast of the House in legislative action this year, something which usually is not the case.

JOHNSON's skillful leadership is going to be missed in the closing days of the session, and it might well be that his inability to get back into action this summer will result in a much longer session than had been anticipated.

Any hope the Democrats had that JOHNSON might be available next year as vice presidential material was dashed when the capable Texan was stricken.

[From the Trenton Evening Times of July 8, 1955]

MR. JOHNSON'S LEADERSHIP

Senator LYNDON B. JOHNSON, the majority leader in the Senate, has grown enormously in stature since his party came into control of Congress. He has displayed great skill in leadership, also a spirit of high statesmanship in his attitude toward administration measures vital to the national interest. In fact, Senator JOHNSON's complete absence of partisanship in his handling of measures vital to President EISENHOWER's program has made unique and admirable the political history in Washington since last January.

In view of this unexampled cooperation, President EISENHOWER's ungenerous comment upon the record of Congress was unjustified and in poor taste. It is true that the President has not obtained all that he has asked and that some of the accomplishments given him have not been precisely the form he desired. It is also true that if the President had to rely upon the support of his own faction-ridden party he would have obtained virtually nothing at all.

Senator JOHNSON has been seriously stricken at the height of his public career. His heart attack is thus a shock to many people. It is their sincere hope that he will soon recover and that eventually he will assume again the duties he has fulfilled with such competence and dignity.

[From the Charlotte News of July 8, 1955]

THE SENATE NEEDS JOHNSON'S TOUCH

The columnists and commentators have been quick to see in Senator LYNDON JOHNSON's illness a hard blow to any presidential ambitions he may entertain. A more important concern, it seems to us, should center on what effect his heart attack will have on his role as Senate majority leader.

In that position since 1952 he has laid down a solid record of service to the country.